

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROGER BURWELL and DEPARTMENT OF THE AIR FORCE,
AIR LOGISTICS CENTER, TINKER AIR FORCE BASE, Oklahoma City, OK

*Docket No. 01-615; Submitted on the Record;
Issued November 1, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a ratable hearing loss causally related to factors of his federal employment.

On July 5, 2000 appellant, then a 47-year-old HVAC mechanic, filed an occupational disease claim, alleging that his bilateral hearing loss resulted from exposure to hazardous noise from machinery, air compressors and welding equipment. He submitted copies of an occupational noise exposure summary, a job description and periodic audiograms obtained by the employing establishment from December 1977 through October 1999.¹ The record indicates that appellant retired from work effective May 31, 2000.

The Office of Workers' Compensation Programs referred appellant and a statement of accepted facts for audiologic and otologic evaluation by Dr. Richard Dawson, a Board-certified otolaryngologist, on August 10, 2000. He noted that he had compared prior audiometric findings with an audiometric test conducted in his office. Dr. Dawson opined that there was progression of a mild high tone sensorineural hearing loss. He indicated that he was unable to causally relate appellant's hearing loss to his employment since he had not seen noise levels relevant to appellant's job.

An audiogram dated August 10, 2000 was submitted along with Dr. Dawson's narrative report indicating that testing at 500, 1,000, 2,000 and 3,000 hertz (Hz) and revealed losses in the right ear of 15, 5, 10 and 20 decibels respectively and losses in the left ear of 20, 10, 15 and 20 decibels respectively.

¹ These audiograms appear to have been prepared by a clinical audiologist; however, the tests were not reviewed or certified by a physician. See *Joshua A. Holmes*, 42 ECAB 231 (1990). The Office is under no obligation to review every uncertified audiogram, which has not been prepared in connection with an examination by a medical specialist. See *Alfred J. Avelar*, 26 ECAB 436 (1975).

An Office medical adviser reviewed appellant's August 10, 2000 audiogram and agreed that appellant suffered from a sensorineural type of hearing loss attributable to noise exposure on the job. He applied the Office's standardized procedures to calculate zero percent monaural loss in the left and right ear and zero percent binaural loss. The Office medical adviser further indicated that a hearing aid was not authorized.

By decision dated December 4, 2000, the Office advised appellant that his claim for a hearing loss due to his employment-related noise exposure had been accepted. However, the Office found that appellant was not entitled to a schedule award as the medical evidence of record failed to establish that he sustained a ratable hearing loss.

The Board finds that appellant does not have a ratable hearing loss for schedule award purposes.

The schedule award provision of the Federal Employees' Compensation Act² and its implementing federal regulation,³ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use of specified members, functions or organs of the body. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.⁴ However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association (A.M.A.), *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁵

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz cycles per second. The losses at each frequency are added up and averaged and a "fence" of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss. The lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss. The Board has concurred in the Office's use of this standard for evaluating hearing losses for schedule award purposes.⁶

² 5 U.C.S. § 8107.

³ 20 C.F.R. § 10.404 (1999).

⁴ 5 U.S.C. § 8107(c)(19).

⁵ See 20 C.F.R. § 10.404 (1999).

⁶ *Daniel C. Goings*, 37 ECAB 781 (1986).

The Office medical adviser applied the Office's standard procedures to the audiogram obtained for Dr. Dawson. Testing for the right ear at 500, 1,000, 2,000 and 3,000 Hz revealed hearing threshold levels of 15, 5, 10 and 20 decibels respectively. These losses total 50 decibels, which is divided by 4 for an average level of 12.5 decibels. Reducing the average by the fence of 25 decibels (as discussed earlier) leaves a balance of 0 decibels, meaning that no impairment is presumed to exist in appellant's ability to hear with his right ear, everyday sounds under everyday listening conditions.

Testing for the left ear at 500, 1,000, 2,000 and 3,000 Hz revealed threshold levels of 20, 10, 15 and 20 decibels respectively. These losses total 65 decibels, which is divided by 4 for an average of 16.25 decibels. Reducing the average by the fence of 25 leaves a balance of zero (0) decibels, meaning that no impairment is presumed to exist in appellant's ability to hear, with his left ear, everyday sounds under everyday listening conditions.

Consequently, although it is established in this case, that appellant sustained a hearing loss in both ears as a result of his occupational exposure to hazardous noise, the Office medical adviser properly found that appellant's hearing loss is not severe enough under the protocols of the A.M.A., *Guides* to constitute a compensable impairment. The Board, therefore, concludes that appellant is not entitled to a schedule award.

The decision of the Office of Workers' Compensation Programs dated December 4, 2000 is hereby affirmed.

Dated, Washington, DC
November 1, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member